

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

FIRST NATIONAL INSURANCE COMPANY	)	
OF AMERICA, a Washington	)	CIV. S-04-836 GEB JFM
corporation,	)	
	)	
Plaintiff,	)	
	)	<u>ORDER</u>
v.	)	
	)	
MBA CONSTRUCTION, a California	)	
corporation doing business as MACK	)	
CONSTRUCTION; KEVIN D. MACK, an	)	
individual; KATIE BAUGH, an	)	
individual; and DANNY W. BAUGH,	)	
an individual,	)	
	)	
Defendants.	)	

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On April 27, 2005, the Court continued Plaintiff's motion for partial summary judgment previously scheduled for May 2, 2005, to June 27, 2005. Plaintiff has filed a motion for reconsideration of that continuance.

While the Court was busy handling a congested docket, Defendants requested that the hearing on Plaintiff's motion be continued, arguing that the hearing should be continued "because trial of a related action involving the same parties and same subject matter . . . commence[d] on April 26, 2005."<sup>1</sup> (Defs.' Request for

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<sup>1</sup> Defendants' request for a continuance complied with Local Rule (continued...)

Continuance at 1.) Plaintiff did not respond to that request, even though it could have done so at the prescribed time for filing a reply brief.<sup>2</sup> Therefore, the request was granted. Plaintiff then filed a motion for reconsideration in which Plaintiff argues "Defendants have improperly alleged untrue facts in their Opposition in order to obtain a continuance" and, in fact, "different contracts and legal issues are at issue [in the trial which commenced April 26, 2005], such that under no circumstances could a result in the trial in that other action be dispositive in any way in the present indemnity action. . . ."<sup>3</sup> (Pl.'s Mot. for Recons. at 2.) However, Plaintiff did not explain why it could not have opposed the continuance request in a timely filed reply brief. Therefore, Plaintiff's motion for reconsideration is denied.

IT IS SO ORDERED.

Dated: April 29, 2005

/s/ Garland E. Burrell, Jr.  
GARLAND E. BURRELL, JR.  
United States District Judge

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<sup>1</sup> (...continued)  
78-230(g), which states that "Requests for continuances of hearings on the motion calendar . . . shall be made to the Judge . . . at least five (5) court days prior to the scheduled hearing date."

<sup>2</sup> Local Rule 78-230(d) states that "Not less than five (5) court days preceding the date of hearing, the moving party may serve and file a reply to any opposition filed by a responding party."

<sup>3</sup> The motion for reconsideration also appears to contain arguments that should have been set forth in a timely reply brief. In fact, nearly two-thirds of Plaintiff's fourteen page motion for reconsideration is dedicated to those arguments.